

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARGARET G. FISHER,

Plaintiff,

v.

CITY SCHOOL DISTRICT OF ALBANY, et al.,

Defendant.

No. 1:08-CV-1170
(LEK/DRH)

APPEARANCES:

MARGARET G. FISHER
Plaintiff Pro Se
31 Danker Avenue
Albany, New York 12206

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

REPORT-RECOMMENDATION and ORDER

Plaintiff pro se Margaret G. Fisher ("Fisher") commenced this action on October 31, 2008 under 42 U.S.C. § 1981 alleging violations of her civil rights. Docket No. 1. On the same date, Fisher filed a motion for leave to proceed in forma pauperis. Docket No. 2. In an order filed November 13, 2008, Fisher's motion for leave to proceed in forma pauperis was denied and she was directed to pay the entire filing fee of \$350 before her case could proceed. Docket No. 6. Fisher has failed to pay the \$350 filing fee.¹ It has now been four months since Fisher was directed to pay the full amount of the filing fee and she has not done so. Accordingly, since this

¹According to the court-only notations contained in the docket of this case, Fisher has been in contact with the Clerk's Office both by telephone and in person on four occasions regarding her attempts to pay the filing fee. See Staff Notes dated 12/15/2008, 1/08/2009, 1/15/2009, 2/9/2009. On the most recent visit on February 9, 2009, Fisher attempted to pay the filing fee with a "starter" check, but the payment was refused by the Clerk's Office as an unacceptable form of payment.

action cannot proceed in the absence of Fisher's payment of the filing fee, it is hereby

RECOMMENDED that Fisher's complaint be **DISMISSED** in its entirety without prejudice pursuant to Fed. R. Civ. P. 16(f)(1)(C) and 37(b)(2)(A)(v) for Fisher's failure to comply with the Court's November 13, 2008 order; and it is hereby

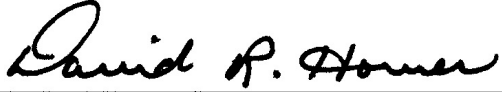
ORDERED that the Clerk serve Fisher with a copy of this order by regular mail.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have ten days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

FAILURE TO OBJECT TO THIS REPORT WITHIN TEN DAYS WILL PRECLUDE

APPELLATE REVIEW. Roldan v. Racette, 984 F.2d 85 (2d Cir. 1993) (citing Small v. Secretary of HHS, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: March 4, 2009
Albany, New York



David R. Homer
U.S. Magistrate Judge